

UNITED STATES OF AMERICA)
)
 v.) **ORDER**
)
 DEWAYNE CORNELIUS BROWN,)
)
 Defendant.)

On October 29, 2014, Brown filed a motion for a sentence reduction under 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10, and Amendment 782 to the Sentencing Guidelines. See [D.E. 35]. On November 17, 2014, the government responded in opposition. See [D.E. 36]. On August 17, 2015, Brown filed a memorandum in support. See [D.E. 38]. Brown's new advisory guideline range is 135 to 168 months' imprisonment based on a total offense level of 31 and a criminal history category of III. See Resentencing Report. Brown requests an 87-month sentence. See [D.E. 38] 1.

The court has discretion to reduce Brown's sentence. See, e.g., Dillon v. United States, 560 U.S. 817, 827 (2010); United States v. Cole, 618 F. App'x 178, 178–79 (4th Cir. 2015) (per curiam) (unpublished); United States v. Thomas, 546 F. App'x 225, 225–26 (4th Cir. 2013) (per curiam) (unpublished); United States v. Perez, 536 F. App'x 321, 321 (4th Cir. 2013) (per curiam) (unpublished); United States v. Smalls, 720 F.3d 193, 195–97 (4th Cir. 2013); United States v. Stewart, 595 F.3d 197, 200 (4th Cir. 2010). In deciding whether to reduce Brown's sentence, the court finds that Brown engaged in a serious and prolonged conspiracy to possess with the intent to distribute 500 grams or more of cocaine. See PSR ¶¶ 1–6. Furthermore, Brown possessed a firearm in furtherance of the conspiracy. See id. ¶¶ 4, 31. Moreover, while incarcerated on his federal sentence, Brown has been sanctioned for possessing a hazardous tool. See [D.E. 36] 4; cf. Pepper v. United States, 562 U.S. 476, 491 (2011); U.S.S.G. § 1B1.10, cmt. n.1(B)(iii). Nonetheless, Brown also has engaged in some positive behavior while incarcerated. See [D.E. 38] 6–7.

Having reviewed the entire record and all relevant policy statements, the court finds that Brown received the sentence that was “sufficient, but not greater than necessary” under 18 U.S.C. § 3553(a) and finds that reducing Brown's sentence would threaten public safety in light of his serious criminal conduct and possession of a hazardous tool in prison. Cf. U.S.S.G. § 1B1.10, cmt. n.1(B)(ii). Brown's serious criminal conduct and possession of a hazardous tool in prison do not support reducing Brown's sentence. Thus, the court denies Brown's motion for reduction of sentence. See, e.g., Cole, 618 F. App'x at 178–79; Thomas, 546 F. App'x at 225–26; Perez, 536 F. App'x at 321.

In sum, Brown's motion for reduction of sentence [D.E. 35] is DENIED.

SO ORDERED. This 22 day of June 2016.


JAMES C. DEVER III
Chief United States District Judge